

SENATE BILL REPORT

SB 5565

As Reported by Senate Committee On:
Human Services & Corrections, February 20, 2013

Title: An act relating to background checks.

Brief Description: Concerning background checks for individuals seeking a license under chapter 74.13 RCW or unsupervised access to children.

Sponsors: Senators Hargrove, Carrell, Keiser, Harper, Nelson, Kohl-Welles, McAuliffe and Kline.

Brief History:

Committee Activity: Human Services & Corrections: 2/12/13, 2/20/13 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5565 be substituted therefor, and the substitute bill do pass.

Signed by Senators Carrell, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove, Harper and Padden.

Staff: Kevin Black (786-7747)

Background: The Department of Social and Health Services (DSHS) conducts criminal history background checks and checks for child abuse or neglect history for persons who apply for state employment; for a license to be a foster parent; and for persons employed by a business or organization licensed by DSHS, or with whom DSHS has a contract to provide care, supervision, case management, or treatment for children in care.

Summary of Bill (Recommended Substitute): DSHS must not deny or delay an application for employment or unsupervised access to children to an individual based solely on a crime or civil infraction revealed in the background process that is not on the Secretary of DSHS's list of negative actions and not directly related to child safety. If DSHS determines that the requisite character, suitability, and competence is not present, DSHS must provide reasons in writing to the person with copies of records or documents related to this decision within ten days of the determination. DSHS may not be held civilly liable for its employment or licensure decision if the background information relied upon does not indicate that child safety would be a concern.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

DSHS must convene a workgroup to explore creating a certificate of suitability for parents who have turned their lives around after involvement with Child Protective Services (CPS) or the dependency system. The workgroup must consider factors, authority, process, and effect related to such certificates and report its recommendations to the Legislature by December 31, 2013. A list of required workgroup participants is provided.

DSHS must charge a fee to process requests for a person's child abuse or neglect history from out-of-state jurisdictions. All proceeds from the fee must be used to cover the cost of background checks. The definition of unsupervised is clarified.

When placing a child before a shelter care hearing with a relative or other suitable person, DSHS may perform the required criminal history background check as soon as possible after placement if the person appears otherwise suitable and competent to provide care and treatment.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Reference is made to the Secretary of DSHS's list of crimes and negative actions. The scope of background check provisions is revised to include relatives and other suitable persons. Fees to out-of-state jurisdictions may exceed the cost of the background check as long as the proceeds support costs related to background checks. When placing a child before a shelter care hearing with a relative or other suitable person, DSHS may perform the required criminal history background check as soon as possible after placement if the person appears otherwise suitable and competent to provide care and treatment.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: I was not allowed to be a foster parent for my son's half-siblings because of my CPS history, even though I am reunified with my son and my life is back on track. My wife should not suffer because of my previous life choices. I am not allowed to coach soccer or take an active parental role in my child's school functions because of my CPS record. Every parent should have the right to earn a certificate of suitability. I have been clean and sober since 2009 and all of my children have been returned, but I am not allowed to work as a dental assistant having contact with children or the elderly based on my CPS history despite being employed, enrolled in school, and active in public service. Reunified parents could provide peer support for families in the foster care system if a certificate of suitability were available. Information provided by DSHS in response to background checks is inconsistent over time with respect to disqualifiers. If my grandkids, who spend one weekend a month with me, needed to be placed in care, DSHS told me they would not approve me for placement because my suitability has not been established. Right now any hit on a background check must be

investigated, no matter how minor or how difficult it is to obtain records, which may be old or from a foreign jurisdiction.

OTHER: We support the intent of this legislation. Please consider adding a member from the Office of Public Defense Parent Representation Project to the workgroup and consider other changes. DSHS employees should not be exempt from strict background check requirements. Language should be added to limit tort liability.

Persons Testifying: PRO: Shayne Rochester, Heather Njarkvik, Vickie Wilson, Gina Campbell, Snohomish County Parent Advocacy Committee; Laurie Lippold, Parents for Our Children; Brenda Kaufman, Catholic Community Service of Western WA; Mary Stone Smith, Catholic Community Services.

OTHER: Patrick Dowd, Office of the Family & Children's Ombudsman; Randy Hart, DSHS Children's Administration.